

Driver's License Information System (CDLIS), for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce, the Agency believes the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the hearing standard in 49 CFR 391.41(b)(11) is likely to achieve a level of safety equal to that existing without the exemption.

#### IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

#### V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### VI. Conclusion

Based upon its evaluation of the 91 exemption applications, FMCSA exempts the following drivers from the hearing standard, 49 CFR 391.41(b)(11), subject to the requirements cited above:

Mario Alverado (CA)  
 Shey C. Amberson (FL)  
 Kasset Andrews (MA)  
 Steven Andrews (FL)  
 Randy Bailey (NJ)  
 Ivan Batista (NJ)  
 Larry G. Beeson (NC)

Deontae Blanks (TX)  
 Daryl A. Broker (MN)  
 Justin Brooks (WA)  
 Daniel Camp (GA)  
 Joseph Caplan (CT)  
 Vincente Carreon (TX)  
 Richard N. Casto (OH)  
 Blair D. Chappell (PA)  
 Christa B. Copley (NC)  
 Leslie Crump (IN)  
 William Darnell (AZ)  
 Travis K. Davisson (IA)  
 Sean M. Dearsman (OH)  
 Shane DiBernardo (CO)  
 James Edmonson (LA)  
 Gary Effner (MA)  
 Mitchell R. Estill (MO)  
 Jerrey Exum (TX)  
 William F. Farrell (WI)  
 Lucius Fowler (IL)  
 Bruce Francechi (NY)  
 Buddy Gann (IN)  
 Blanca Gerardo (TX)  
 Teela Gilmore (GA)  
 Douglas M. Gray (OR)  
 John Grebenc (MN)  
 Kimberly Gumm (IN)  
 Conrad Hause (MD)  
 John Hayt III (FL)  
 Raymond E. Henk (TX)  
 Jorge L. Hernandez (TX)  
 Andrew J Hippler (ID)  
 Charles Holbrook (MD)  
 Paul Hoover (PA)  
 Buford G Hudson (KY)  
 Thomas Gensen (IA)  
 Charles J. Jernigan, Jr. (SC)  
 James M. Johnson (MN)  
 Matthew Jones (CA)  
 Ronald L. Jones (OK)  
 Wayne A. Kramas (WI)  
 Daniel Krytosek (MN)  
 Nicholas Kulasa (IL)  
 Ryan R. Larkin (MA)  
 Aaron S. Leader (AZ)  
 Brian Levinson (FL)  
 Benjamin Lockwood (TX)  
 Srephen O. Lothamer (MI)  
 Pete Love Jr. (NE)  
 John R. Martikainen (CT)  
 Cory McDaniel (PA)  
 Jamarques McMahan (TX)  
 Ty McRae (GA)  
 David W. Morgan (ID)  
 Coltin Mueller (WI)  
 Eddie P. Naquin (TX)  
 Ernest O. Noel (IN)  
 Robert C. Oliver (WA)  
 Tim S. Oyler (UT)  
 Douglas Pfuenger (MO)  
 Charles L. Pitt (AL)  
 Jonathan Pitts (MD)  
 Robert F. Quintero (IL)  
 Jonathan Ramos (NE)  
 James E. Redmond (IL)  
 Lucas Robinson (OH)  
 David Rowe (CO)  
 Dustin Sargent (TX)  
 Carl Seabough (FL)

Johnny Seng (RI)  
 Michael Singleton (TX)  
 Marshall Smith (TX)  
 Lonnie D. Stockton (TX)  
 Robert S. Swafford (OK)  
 Michael Swetnam (TX)  
 Courtney D. Turner (VA)  
 Cory Twombly (NY)  
 Gary Wallace (NC)  
 James R. Wilson (MS)  
 Melanie Wilson (TX)  
 Ricky M. Winslow (MI)  
 Jerry E. Wright (NC)  
 Kedir Yimamu (VA)  
 Edward J. Zozaya (AZ)

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 7, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0002]

#### Qualification of Drivers; Exemption Applications; Hearing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 33 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on September 6, 2016. The exemptions expire on September 6, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. Office

hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

*Docket:* For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

##### II. Background

On August 1, 2016 FMCSA published a notice announcing receipt of applications from thirty three individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (81 FR 50594). The public comment period ended on August 31, 2016 and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to driver a CMV if that person: First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to

American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

##### III. Discussion of Comments

FMCSA received one comment in this preceeding. The Florida Department Highway Safety and Motor Vehicles expressed concerns for the far reaching ramifications of allowing deaf or hard of hearing drivers to test, train and/or drive commercially and concerns regarding the process by which hearing exemptions are granted from parts 49 CFR 394.41. FMCSA acknowledges the Florida Department of Highway Safety and Motor Vehicles concerns and a response to these comments will be published in a subsequent notice.

##### *Basis for Exemption Determination*

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on current medical information and literature, and the 2008 Evidence Report, "Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety." The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS), for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). Each applicant's record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety is likely to be achieved by

permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce, the Agency believes the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the hearing standard in 49 CFR 391.41(b)(11) is likely to achieve a level of safety equal to that existing without the exemption.

##### IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

##### V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

##### VI. Conclusion

Based upon its evaluation of the thirty three exemption applications, FMCSA exempts the following drivers from the hearing standard, 49 CFR 391.41(b)(11), subject to the requirements cited above:

Pricilla Brackenridge (IL)  
David Balay Chappellear (TX)  
Donald Coen (NY)  
Mathias Conway (MI)  
Gary A. Cordano (CA)  
Harvey Culver (TX)  
Charles DePriest (TX)  
William R. English (TX)  
Samuel Fernell (OH)  
Richard Fisher (PA)  
Russell Fleming (GA)  
Ronald Freeze (OK)  
Carlos Gonzales (GA)  
Zachary Gullett (OH)  
Richard Hoots (AZ)  
Carlos Lee Jackson (TX)  
Richard Kahalewai-Campbell (HI)  
Randall Lutsey (PA)  
Reynaldo Martinez (TX)  
Julio C. Medrano (WA)

Keith Miller (MO)  
 Brian J. Minch (MA)  
 Katrina Parker (NJ)  
 Walt Pindor (AZ)  
 Robert Samarian (MI)  
 D'Nielle Smith (OH)  
 Michael Smith (CO)  
 Daniel Stroud (UT)  
 Michael Sweet (GA)  
 James Watters (OH)  
 Gerald Westfall (PA)  
 Derek Zamot (FL)

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 8, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0290]

#### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 51 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) operating a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before March 16, 2018.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2017-0290 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.

- *Fax:* 1-202-493-2251.

**Instructions:** Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it

finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver’s medical certification.

The 51 individuals listed in this notice have requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population.

FMCSA established its diabetes exemption program, based on the Agency’s July 2000 study entitled “A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.” The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305). Section 4129 requires: (1) Elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum